

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMSURGCARE, *et al.*,
Plaintiffs,

-v-

AVERY HAGER, *et al.*,
Defendants.

24-CV-6181 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

In support of their motion to dismiss, Defendants Oxford Health Plans (NY), Inc. and Oxford Health Insurance, Inc. have attached a copy of the 2018 health benefits plan of which, they allege, Avery Hager was a beneficiary (“the 2018 Plan”). (ECF No. 35-2.) However, to authenticate this document they have provided a sworn declaration by only Defendants’ counsel (see ECF No. 35-1), rather than the sworn declaration of “a custodian or other qualified witness [who] testif[ies] that the document was kept in the course of a regularly conducted business activity and also that it was the regular practice of that business activity to make the record.” *United States v. Komasa*, 767 F.3d 151, 156 (2d Cir. 2014) (cleaned up).

Before this case was transferred to this District from the Central District of California, Defendants filed a declaration sworn by Jane Stalinski, United HealthCare’s “Legal Services Specialist,” who could authenticate such a document. (ECF No. 1-1.) However, Stalinski’s declaration was filed with a 2020 version of the health benefits plan (“the 2020 Plan”), thus creating confusion about whether she authenticated the 2018 Plan or the 2020 Plan. (*See* ECF No. 1-1; ECF No. 26 at 8.) As Defendants’ counsel explained to the Central District of California court: “[W]e recently discovered that, due to a system population error described by

Oxford, a later version of the Plan was attached to the Notice of Removal and to my Exhibit A in my Original Declaration.” (ECF No. 21-1.)

Defendants Oxford Health Plans (NY), Inc. and Oxford Health Insurance, Inc. should thus file a declaration properly authenticating the 2018 Plan, similar to the one they filed in the Central District of California sworn by Stalinski, by May 21, 2025.

SO ORDERED.

Dated: May 15, 2025
New York, New York



J. PAUL OETKEN
United States District Judge